

Volume I

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

No. 1:17-cv-10107-WGY

DAVID SETH WORMAN, et al.,
Plaintiffs,
vs.
CHARLES D. BAKER, et al.,
Defendants.

DEPOSITION OF MICHAEL HALPIN
Friday, September 15, 2017 at 9:40 a.m.
Campbell, Campbell, Edwards & Conroy
One Constitution Center
Boston, Massachusetts 02129

-----Jennifer A. Doherty, CSR-----
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1 APPEARANCES: 2 3 ALSO PRESENT: 4 CAMPBELL CAMPBELL EDWARDS & CONROY 5 Christopher R. Howe, Esq. 6 One Constitution Center 7 Boston, Massachusetts 02129 8 617-241-3029 9 chowe@campbell-trial-lawyers.com 10 11 Siobhan E. Kelly, Esq. 12 470 Worcester Road 13 Framingham, Massachusetts 01702 14 Staff Counsel-Department of State Police 15 16 17 18 19 20 21 22 23 24	1 PROCEEDINGS 2 (Exhibit Nos. 1 and 2 premarked for 3 identification.) 4 MICHAEL HALPIN, having been 5 satisfactorily identified by the Notary Public was 6 duly sworn and testified as follows: 7 DIRECT EXAMINATION 8 BY MR. NARDONE: 9 Q. Could you tell us your full name for the 10 record? 11 A. Sure. It's Michael Halpin, H-A-L-P-I-N. 12 Q. Have you ever been deposed before? 13 A. I have not. 14 Q. So I'm going to go over a few ground rules 15 up front. Please keep your voice up so the court 16 reporter can hear everything. Please wait until I 17 finish asking a question before you start to answer. 18 We can't talk over each because there's no way she's 19 able to get it down. 20 If you have any questions about any 21 of the questions that I ask you, let me know and 22 tell me you don't understand something and I'll try 23 to clarify it. If you're unfamiliar with any of the 24 terms or anything like that, just let me know and

<p style="text-align: right;">18</p> <p>1 A. I would say they should be, and generally, 2 yes. 3 Q. As we sit here today, you're not aware of 4 any incidents in which a banned firearm or magazine 5 was used in a shooting that was determined to be in 6 self-defense? 7 A. I am not. 8 Q. If you can go on to Interrogatory No. 4, 9 it asked for investigations, arrests, or convictions 10 of persons for a possession of a banned firearm or 11 magazine, and the Colonel's response is the incident 12 marked in Interrogatory No. 1 that we discussed. Do 13 you have any additional information that would be 14 responsive to that interrogatory? 15 A. No. 16 Q. The next interrogatory asked for the 17 identity of person or persons responsible for or 18 participated and determined whether a particular 19 firearm is a copy or duplicate of an enumerated 20 banned firearm. 21 After objections, the Colonel's 22 response is he's unaware of any persons employed 23 with the Massachusetts State Police who were 24 responsible for development of the Attorney</p>	<p style="text-align: right;">20</p> <p>1 Enforcement. 2 And, again, after objections, the 3 Colonel's answer is that he's unaware of any person 4 within the Massachusetts State Police who was 5 responsible for that review. Is that accurate? 6 A. Yes. 7 Q. You're not aware of anyone that -- 8 A. I am not. 9 Q. Number 8 is a very similar question asking 10 for anyone that participated in the preparation of 11 the Notice of Enforcement itself. Again, the 12 Colonel was unaware. 13 Are you aware of anyone that 14 participated in that? 15 A. I am not. 16 Q. Interrogatory No. 9 asks for the identity 17 of persons responsible for reviewing, processing, 18 approving, and maintaining records of Massachusetts 19 firearms transfers, sales, and registrations. 20 After objections, the Colonel states 21 that the Massachusetts State Police do not have 22 responsibility for any of that and that is done by 23 the Secretary of Public Safety. 24 Does Massachusetts State Police</p>
<p style="text-align: right;">19</p> <p>1 General's Enforcement Notice. Is that accurate? 2 A. Yes, I believe it is. 3 Q. As we sit here today, are you aware of 4 anyone that was involved? 5 A. No, I am not. 6 Q. The next interrogatory asks for any person 7 or persons responsible for participating in the 8 preparing of a list of guns that are not assault 9 weapons and related questions and answers published 10 by the Attorney General. 11 Are you familiar with the list of 12 guns that are not assault weapons and the related 13 questions and answers that are currently on the 14 Attorney General's website? 15 A. Yes, I am familiar with it. 16 Q. The Colonel's response is that he's not 17 aware of anyone that was responsible or participated 18 in a substantial way with the creation of that list 19 and the answers to the questions. Is that accurate 20 as we sit here today? 21 A. Yes. 22 Q. The next interrogatory asks for the person 23 or persons responsible for the 2016 review that led 24 the Attorney General to issue the Notice of</p>	<p style="text-align: right;">21</p> <p>1 retain any records whatsoever related to the 2 transfer of firearms? 3 A. Again, I think the only possible response 4 or responsive material we would have would be to 5 specific cases; meaning, if they were gathered as 6 part of an investigation, then the department may 7 have that in an investigative file, but we don't 8 aggregate or track the information. 9 Q. Just make sure I understand. You don't 10 keep a database of transfers, but if you were 11 investigating a crime where a transfer were 12 relevant, you would pull the records for that from 13 whoever does keep records of transfers. 14 A. Yes, possibly. I assume if that were 15 relevant to an investigation, the officer would want 16 to review that information. 17 Q. So you have access to the records but you 18 don't keep them? 19 A. Correct. 20 Q. The next interrogatory asked for the 21 number of -- and this is a term that we will talk 22 about shortly -- Massachusetts-compliant firearms 23 that were transferred after the enactment of 24 challenge laws but prior to the Notice of</p>

<p style="text-align: right;">22</p> <p>1 Enforcement.</p> <p>2 Before you answer, I'm going to</p> <p>3 explain to you what Massachusetts compliant firearms</p> <p>4 means in this interrogatory, and what it refers to</p> <p>5 are firearms that were designated to be</p> <p>6 Massachusetts compliant by manufacturers and were</p> <p>7 sold in Massachusetts under that designation?</p> <p>8 MR. PORTER: I just object to the</p> <p>9 form of this question and any question that uses the</p> <p>10 term "Massachusetts-compliant firearms." As we've</p> <p>11 asserted throughout, we think it's a term that</p> <p>12 really isn't possible to use and its meaning is</p> <p>13 unknowable and inherently contradictory. So that's</p> <p>14 the objection.</p> <p>15 Q. You can answer.</p> <p>16 A. I'm going to ask you to ask me the</p> <p>17 question again.</p> <p>18 Q. Sure. First, using what I described as a</p> <p>19 Massachusetts-compliant firearm, do you understand</p> <p>20 what I was staying when I referred to that?</p> <p>21 A. I understand, yes. As you defined it,</p> <p>22 yes, I understood that.</p> <p>23 Q. This interrogatory asks to state how many</p> <p>24 of those firearms were transferred after the</p>	<p style="text-align: right;">24</p> <p>1 limited to the Notice of Enforcement.</p> <p>2 And the Colonel's response here is</p> <p>3 that no particular person at the Massachusetts State</p> <p>4 Police is responsible for responding to such</p> <p>5 questions, but a number of Massachusetts State</p> <p>6 Police personnel could receive random inquiries to</p> <p>7 which they would respond. So I have a number of</p> <p>8 questions about that.</p> <p>9 Number one, are individual</p> <p>10 Massachusetts State Police Troopers or Officers</p> <p>11 permitted to answer questions about the scope of</p> <p>12 this law?</p> <p>13 A. We generally discourage our officers from</p> <p>14 giving out legal advice to people; that being said,</p> <p>15 you know, we have 2,300-plus members, and when</p> <p>16 citizens come in and ask questions, I think they do</p> <p>17 try to be as helpful as they can.</p> <p>18 If a matter is very clear and can be</p> <p>19 explained to somebody, I think they will sometimes</p> <p>20 offer a piece of advice. Sometimes they will direct</p> <p>21 them to other people within the agencies. We</p> <p>22 sometimes get people referred from a barracks to the</p> <p>23 legal section and we generally tell people, We're</p> <p>24 not your lawyers, we can't give you legal advice.</p>
<p style="text-align: right;">23</p> <p>1 enactment of the challenged laws. And after</p> <p>2 objections, the Colonel's response is that the State</p> <p>3 Police do not maintain information sufficient to</p> <p>4 answer that interrogatory. Is that accurate?</p> <p>5 A. That is correct.</p> <p>6 Q. Interrogatory No. 11 asks for reviews of</p> <p>7 firearms transfers and sales conducted between 1998</p> <p>8 and 2016, any violation of law discovered through</p> <p>9 such review, and any agency to which it reported the</p> <p>10 violation was submitted.</p> <p>11 After objections and privilege</p> <p>12 limitations, the Colonel has identified Lieutenant</p> <p>13 Zani as an individual who participated in reviews of</p> <p>14 firearm sales.</p> <p>15 Are there any other individuals that</p> <p>16 you are aware of who participated in such reviews?</p> <p>17 A. I am not, no.</p> <p>18 Q. We'll discuss the substance of those</p> <p>19 reviews with Mr. Zani. I don't want to duplicate</p> <p>20 the effort here.</p> <p>21 The next interrogatory asks for</p> <p>22 persons responsible for or participated in</p> <p>23 responding to questions from the public regarding</p> <p>24 the scope of the challenged laws including but not</p>	<p style="text-align: right;">25</p> <p>1 That's all meant to prevent, you know, somebody</p> <p>2 violating the law and using the department as the</p> <p>3 justification for why they did what they did.</p> <p>4 So we generally discourage it, both</p> <p>5 our civilians and our uniform members from giving</p> <p>6 what we could consider legal advice.</p> <p>7 Q. Are you aware of any inquiries that have</p> <p>8 come in to anyone within the Massachusetts State</p> <p>9 Police about the scope of the challenged laws or the</p> <p>10 Notice of Enforcement?</p> <p>11 A. I am not.</p> <p>12 Q. Hopefully that will streamline the rest of</p> <p>13 what we're going to go through here today since we</p> <p>14 did that up front.</p> <p>15 What I want to talk to you about</p> <p>16 right now are some of the attributes of the banned</p> <p>17 firearms and banned magazines. And just so we're</p> <p>18 clear, when I refer to banned firearms, I'm talking</p> <p>19 about firearms that are banned under Massachusetts</p> <p>20 law as either assault weapons, copies or duplicates</p> <p>21 or that failed the features test that's incorporated</p> <p>22 in federal law. Does that make sense to you?</p> <p>23 A. Yes.</p> <p>24 Q. Does the Massachusetts State Police have a</p>